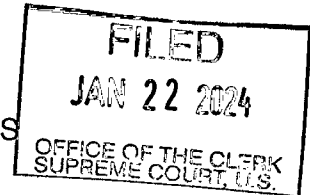


23-6649

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Larry David Davis — PETITIONER
(Your Name)

vs.

Barry A. Sims et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eighth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Larry David Davis
(Your Name)

880 East Gaines
(Address)

Dermott, Arkansas 71638
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Whether the Judge, prosecutor, and Davis' court appointed attorney, and the investigating officer fingerprinting and investigating Davis in open court without Davis ever being served a warrant for the charges without probable cause intimately associated with the judicial process?

2. Whether the prior agreement in advance to predetermine to fingerprint and investigate Davis in a court appearance a conspiracy?

Questions Presented

3. Whether their actions fit within a common law tradition of absolute immunity when they had Larry Davis fingerprinted in court to investigate Davis without a warrant and without probable cause a week before Davis's trial?

4. Whether fingerprinting to investigate Davis inside a open crowded courtroom a function normally performed by a judge and a prosecutor, and a public defender?

5. Whether the order to compel Davis to be fingerprinted order by the Judge February 4, of 2019 for the prosecutor and the Jacksonville Detective without Larry Davis ever being served a warrant for these charges and where there was no probable cause show an agreement and a meeting of the minds to deprive Davis of his fourth amendment Constitutional right?

QUESTIONS PRESENTED

6. Whether the Judge, prosecutor and Davis Public defender was acting in the clear absence of all jurisdiction when the judge and two prosecutors and Davis Court appointed attorney predetermined in advance the outcome of a court appearance judicial proceeding for the Jacksonville, Arkansas police officer and Jacksonville, Arkansas investigating officer over the case to compel Larry Davis to get fingerprinted inside the open crowded courtroom in order to investigate Davis without a warrant and without probable cause?

7. Whether the prosecutors and Larry Davis public defender was acting as an advocate or an investigator on February 5, of 2019 when they assumed responsibility for having Davis fingerprinted in court to be investigated by Ryan Childers who was the investigating officer over the case?

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Barry A. Sim Prosecutor - Reese -
Lancaster, Prosecutor - Anna Catherine
Cargile, Amy Jackson Douglas - Public
defender, Police investigator - Ryan Childers,
Detective - Justin Hicks.

RELATED CASES

Davis V. Sims, 4:23-CV-00311-LPR
U.S. District Court for the eastern
district Arkansas, Judgement entered
on June 2nd of 2023.

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TABLE OF AUTHORITIES CITED

CASES

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Imbler v. Pachtman, 424 U.S. at 430, 96 S.Ct. 984, 47 L.Ed.128
Kamp v. Goldstein, 129 S.Ct. 855, 172 L.Ed.2d 706 55 U.S. at 342
Bradley v. Fisher, 13 Wall 335 20 L.Ed 646 (1872)
Tower v. Glover 467 U.S. 914, 104 S.Ct. 2820, 81 L.Ed.2d 758 at 920

STATUTES AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

- ☐ reported at U.S. district court, eastern district, of AR; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was September 29, 2023.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: October 27, 2023, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Fourth Amendment: guarantee the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. And no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

Larry Davis was in the Arkansas Department of Corrections. on the 31st day of January of 2019 detective Justin Hicks of the Jacksonville police department along with prosecutor Reese Lancaster and prosecutor Catherine Cargile requested from Judge Barry Sims an order to Compel Davis to be fingerprinted and investigated on baseless charges without Davis ever being served a warrant for the charges and without any probable cause. four days later on February 4th. of 2019 Judge Sims ordered Davis to be compelled to be fingerprinted and investigated by Jacksonville police Ryan Childers who was the investigating officer.

STATEMENT OF THE CASE

On a pen order Judge Barry Sims ordered for Larry Davis to be brought from prison to Pulaski County for a court appearance to be fingerprinted in court at the court appearance. On the following day of February 5th of 2019 Larry Davis was taken to court and once Davis entered the Pulaski County Seventh division circuit courtroom, Larry Davis court appointed attorney Amy Jackson Douglas who was the deputy public defender had Davis fingerprinted by the Jacksonville police Ryan Childers who was the investigating officer for the Jacksonville Police department. After Amy Jackson had Davis fingerprinted in court for the state prosecutors, Amy Jackson told Judge Barry A. Sims that the state has done and requested an order to get the defendants fingerprints and it has been completed. Larry Davis court appointed attorney Amy Jackson acted on behalf and in concert with the state prosecutors Reese Lancaster and prosecutor Catherine Cargile who influenced Davis court

STATEMENT OF THE CASE

appointed attorney that was assigned to Davis case. In *Polk County v. Dodson* 454 U.S. 312 102 S.Ct 445, 70 L.Ed2d 509 (1981) this court held that public defender act under color of state law and have no immunity from section 1983 liability for intentional misconduct where they engage in a conspiracy with state officials that deprives the defendant client of their rights. Larry Davis has never been served a warrant for these charges. *Polk County v. Dodson* 454 U.S. at 325 this court held that a public defender also would act under color of state law while performing certain administrative and possibly investigative functions. Larry Davis public defender represented the state prosecutors interest when she had Davis fingerprinted in court for the state prosecutors, then spoke on behalf of the state prosecutors to the judge, and told the judge: the state has requested and done and order and it has been completed to get the defendant fingerprints.

REASONS FOR GRANTING THE PETITION

The reason Larry Davis should be granted certiorari is at the time that Larry Davis filed this 1983 he also filed along with it issues of facts which was his court appearance transcript of February 5th, of 2019, in which the court appearance proceeding was just for fingerprinting and investigating Larry Davis, and the record of this court appearance transcript prove that the judge, prosecutor, and police and the investigating officer conspired to deprive Davis of his fourth amendment right to the United States

REASONS FOR GRANTING THE PETITION

Constitution. Davis also filed the Judge's order that was made in advance and agreed upon by the Judge, prosecutors, and Davis' public defender, and the two detectives prior to the court appearance proceeding where they all predetermined on February 4th, of 2019 to fingerprint and investigate Davis inside a crowded in session courtroom without notice to Davis. The district court Judge Lee P. Rudofsky said that the State court Judge Sims is absolutely immune from suit for actions taken in his judicial role in ordering in advance for Davis to be fingerprinted unlawfully as a part of a larger conspiracy, and nothing in Mr Davis' complaint establishes that Judge Sims acted outside of his judicial capacity or absent jurisdiction. And the two prosecutors are absolutely immune from suit for damages arising out of their official duties, also the public defender Mr Davis was appointed is not considered a state actor who can be sued and the two Detectives cannot be sued for damages in his official capacity nor can the detectives be sued in their individual capacity by Davis.

REASONS FOR GRANTING THE PETITION

from suit in their official capacity and individual capacity, the district court judge said that Mr Davis must identify an official policy or unofficial custom that caused or contributed to the constitutional violation and dismissed Davis's 1983 civil rights complaint without prejudice. 12(B)(6) of the federal rules of civil procedures say that all allegations of material facts are taken as true and construed in the light most favorable to the nonmoving party. In *Buckley v. Fitzsimmons* 509 U.S. at 274, 113 S.Ct. at 1126, 125 L.Ed.2d 209 (1993) this court held that a prosecutor neither is nor should consider himself to be an advocate before he has probable cause to have anyone arrested. This court also held in *Burns v. Reed*, 500 U.S. at 486-487, 111 S.Ct. 1934, 125 L.Ed.2d 547 (1991) that a prosecutor seeking absolute immunity bears the burden of showing that such immunity is justified for the function in question, qualified immunity rather than absolute immunity is sufficient to protect government officials in the exercise of their duties. In *Imbler v. Pachtman*, 424 U.S. at 430, 96 S.Ct. 984 this court held that a prosecutor's investigative activities

REASONS FOR GRANTING THE PETITION

was not a function closely associated with the judicial process. The decision of the district court judge Lee Rudofsky that decided Larry Davis case is in conflict with this court precedent in leading authority on prosecutors, judges and public defenders when they perform investigative functions, and when their conduct is nontraditional cases like *Buckley v. Fitzsimmons* 509 U.S. 259, 274-276 113 S.Ct. 2606, 125 L.Ed.2d 209 (1993), *Burns v. Reed*, 500 U.S. 478, 486, 111 S.Ct. 1934, 114 L.Ed.2d 547 (1991), *Imbler v. Pachtman*, 424 U.S. 409, 428 at 430 96 S.Ct. 984, 47 L.Ed. 128. Immunity may not apply when a prosecutor is not acting as an officer of the court, but instead engaged in investigative task. *Van de Kamp v. Goldstein*, 129 S.Ct. 855 at 555 U.S. 342. This court made clear that absolute immunity may not apply when a prosecutor is not acting as an officer of the court, but instead engaged in investigative tasks. *Bradley v. Fisher*, 13 Wall 335 20 L.Ed. 646 (1872). Say judicial immunity depend on the function performed.

10.

REASONS FOR GRANTING THE PETITION

The district court judge erred in dismissing Davis's complaint and the district court judge decision was in conflict with Supreme Court of the United States case on public defenders like *Polk County v. Dodson* 454 U.S. at 225. This court held that a public defender also would act under color of state law while performing certain administrative and possibly investigative functions, or even when acting as an advocate if his conduct is nontraditional or if the plaintiff pleads and proves that the state influenced the attorney's representation that was assigned to his case as to make the public defender liable under 1983. In *Tower v. Glover* 467 U.S. 914, 923 (1984) This court held that a public defender who conspires with state officials does act under color of state law and may be liable under Section 1983, and to prove conspiracy under 1983, an agreement or a meeting of the minds to intentionally violate the plaintiff constitutional rights. Under *Tower v. Glover* 467 U.S. at 916 This court held and concluded that Public defenders are not immune from liability for

REASONS FOR GRANTING THE PETITION

intentional misconduct by virtue of alleged conspiratorial action with state officials that deprives their clients of federal rights. The court reporters was ordered to change Larry Davis's trial transcript to reflect a stronger case for the prosecution and to delete testimony favorable to Larry Davis. *Slavin v. Curry* 574 F.2d 1256 (5th Cir 1978), under *Slavin v. Curry* when Larry Davis received the altered transcript was January of 2021, that is the date of the last part of the conspiracy, that is the date when the time should accrue. Davis should not be time barred because the statute limitation do not start until the end of the conspiracy when they finally sent Larry Davis a altered transcript January of 2021. Davis filed his 1983 on March 30, 2023. Larry Davis know and understand that Judges are entitled to absolute immunity for all judicial actions judicial actions that are not taken in a complete absence of all jurisdiction under *Stump v. Sparkman* 435 U.S. 349, 355-57 (1978) but not even a judge is immune for jointly engaging

with state officials, and private parties to predetermine the outcome of a judicial proceeding of a court appearance agreed upon in advance to fingerprint and investigate Larry Davis in a courtroom open to the public and crowded. in *Beard v. Udall* 648 F.2d 1264 (1981 ninth circuit) concluded that a prior agreement to decide in favor of one party is not a judicial act. Immunity does not change the character of the judge's action or that of his co conspirators *Stump v. Sparkman* 435 U.S. 349, 356, 98 S.Ct. 1099, 1104 55 L.Ed.2d 331 (1978) *Bradley v. Fisher* *Supra* at 352, 357 Private parties who corruptly conspire with a judge in connection with such conduct are acting under color of state law within the meaning of 1983 as it has been construed in this court prior cases that is the reason Mr Larry Davis Petition should be granted. It is enough that the private party Davis public defender appointed by the circuit court judge was a willful participant in joint action with the state, and the judge.

Larry Davis pray that this court
reverse the decision of the United
States district court and the Eighth
circuit court of appeals

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Larry Davis

Date: January 1, 2024